

REMARKS

The Office Action mailed May 24, 2007, has been received and reviewed. Claims 1-10, 13-22, 25-34, 37 and 40 are currently pending in the application. Claims 1-4, 6, 7, 9, 10, 13-16, 18, 19, 21, 22, 25-28, 30, 31, 33, 34, 37 and 40 stand rejected. Claims 5, 8, 17, 20, 29, and 32 have been objected to as being dependent upon rejected base claims, and claims 5, 8, 17, 20, 29, and 32. Applicant respectfully requests reconsideration of the application as presented herein.

Claim Rejections**35 U.S.C. § 103(a) Obviousness Rejections**

Obviousness Rejection Based on U.S. Patent No. 6,711,413 to Heidari in view of U.S. Patent No. 6,157,815 to Collins et al. and further in view of U.S. Patent No. 5,898,904 to Wang

Claims 1-4, 6, 7, 9, 10, 13-16, 18, 19, 21, 22, 25-28, 30, 31, 33, 34, 37 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Heidari (U.S. Patent No. 6,711,413) in view of Collins et al. (U.S. Patent No. 6,157,815). Applicant respectfully traverses this rejection, as hereinafter set forth.

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

The 35 U.S.C. § 103(a) obviousness rejections of claims 1-4, 6, 7, 9, 10, 13-16, 18, 19, 21, 22, 25-28, 30, 31, 33, 34, 37 and 40 are improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet the criterion that the prior art references must teach or suggest all the claims limitations.

Claims 1, 13, 25, 37 and 40

Regarding independent claims 1, 13, 25, 37 and 40, Applicant's claims include claim elements not taught or suggested in the cited references. Applicant's independent claims 1, 13, 25, 37 and 40, each recite, in part, ***"broadcast-paging message content indicates whether the network has announced availability of on-demand broadcast content"***.

The Office Action alleges:

What Heidari does not specifically disclose is the paging messages also include a repeated network transmitted broadcast paging message that occurs multiple times for each scheduled transmission of the call-paging message. However, Collins teaches these limitations [col. 10: line 30-col. 11:line 65]. Further, Collins teaches that the broadcast paging message indicates the nature of the message [col. 5: lines 22-27], but does not specifically disclose that the broadcast-paging message content indicates whether the network has announced availability of on-demand content. However, Wang teaches this limitation. [col. 15: lines 3-15](Office Action, p. 3; emphasis added.)

Applicant respectfully asserts that the Collins reference appears to teach or suggest no such thing. At the specific recitations to the Collins reference, as alleged in the Office Action, the Collins reference appears to be silent regarding the substance or content of a "broadcast paging message" and appears to be concerned with placement or **location** of the broadcast messages in the broadcast slots and **not** the **content** of the broadcast messages. Furthermore, the teaching or suggestion of the **content** of broadcast messages in the Collins reference appears simply to teach or suggest "[b]roadcast messages may also be provided by private parties[,] [a] typical example of this would be the case were an employer wishes to provide a short message to its employees in the area." (Collins, col. 4, lines 20-23). The citation to the "nature" of the message is as general as the previous citation and does not indicate any further information that may be provided and still does not disclose the limitation ***"broadcast-paging message content indicates whether the network has announced availability of on-demand broadcast content"***. At most, Collins states that the header may indicate the nature of the message and uses this header in conjunction with a predetermined broadcast format.

The Wang reference is directed to a two way wireless data network having a transmitter having a range greater than portions of the service areas. (Title) The two way networks provides two-way paging service that building on top of the existing infrastructure of one or more one-way paging networks. (Col. 9: lines 57-60) Wang teaches or suggests a wireless network that

includes two sub-networks: a simple broadcast network, e.g. a one-way paging network, and a cellular two-way communication network. The cited portion of Wang reads as follows:

For that application, the subscriber can use wireless terminal 305 to send a message requesting specific information, for instance stock or commodity quotation. Base station 303, upon receiving this message, relays the message to network control center 309, where the message is forwarded to an information provider via one of interfaces 311-315. The information provider can then return the requested in a paging message to wireless terminal 305. Thus, the disadvantages of the prior art information methods, i.e. having to send information periodically, rather than on-demand, having to send to all subscribers the same information, or providing each subscriber more information that [sic] he or she cares for, are overcome.

Applicant submits that the Wang reference teaches away from the limitation ***“broadcast-paging message content indicates whether the network has announced availability of on-demand broadcast content”*** found in claims 1, 13, 25, 37, and 40.

Applicant also respectfully suggests that there is no motivation to combine the Wang reference with Heidari and Collins. Wang is directed to an overlay paging system that teaches away from an on-demand broadcast. Combining Heidari and Collins with Wang results in a system that detects broadcast paging messages in a network overlaying an existing infrastructure of one-way paging systems.

While the Collins reference may teach or suggest conventional Short Messaging Service (SMS) such as ‘sending messages to employees’, neither the Collins reference nor the Heidari reference (by the Office Action’s admission), nor the Wang reference, teach or suggest Applicant’s claim element where the ***“broadcast-paging message content indicates whether the network has announced availability of on-demand broadcast content”*** as claimed by Applicant in independent claims 1, 13, 25, 37 and 40.

Therefore, since neither the Heidari reference nor the Collins reference, nor the Wang reference teach or suggest Applicant’s claimed invention including the claim element of where the ***“broadcast-paging message content indicates whether the network has announced availability of on-demand broadcast content”***, these references, either individually or in any proper combination, **cannot** render obvious, under 35 U.S.C. §103, Applicant’s invention as presently claimed in independent claims 1, 13, 25, 37 and 40. Accordingly, Applicant respectfully requests the rejection of presently presented independent claims 1, 13, 25, 37 and 40 be withdrawn.

Claims 2-4, 6, 7, 9, 10, 14-16, 18, 19, 21, 22, 26-28, 30, 31, 33 and 34

The nonobviousness of independent claims 1, 13, 25, 37 and 40 preclude a rejection of claims 2-4, 6, 7, 9, 10, 14-16, 18, 19, 21, 22, 26-28, 30, 31, 33 and 34 which variously depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, the Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to independent claims 1, 13, 25, 37 and 40 and claims 2-4, 6, 7, 9, 10, 14-16, 18, 19, 21, 22, 26-28, 30, 31, 33 and 34 which depend therefrom.

Objections to Claims 5, 8, 17, 20, 29 and 32/Allowable Subject Matter

Claims 5, 8, 17, 20, 29 and 32 stand objected to as being dependent upon rejected base claims, but are indicated to contain allowable subject matter and would be allowable if placed in appropriate independent form. Applicant has amended claims 5, 8, 17, 20, 29, and 32.

CONCLUSION

Claims 1-10, 13-22, 25, 34, 37 and 40 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicant's undersigned attorney.

Respectfully submitted,

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By: /Roberta A. Young/
Roberta A. Young, Reg. No. 53,818
(858) 658-2447

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5803
Facsimile: (858) 658-2502